

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY HUNTER,)	
)	
Plaintiff,)	Civil Action No. 23-1397
)	
v.)	
)	District Judge W. Scott Hardy
FAYETTE COUNTY COMMISSIONER,)	Magistrate Judge Patricia L. Dodge
et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

This matter comes before the Court on the Report and Recommendation (“R&R”) entered by United States Magistrate Judge Patricia L. Dodge on December 14, 2023. (Docket No. 6). By way of background, *pro se* Plaintiff Anthony Hunter initiated this case on August 4, 2023, with the submission of a putative Complaint which was not accompanied by a filing fee or a motion for leave to proceed *in forma pauperis*. (Docket No. 1). On August 17, 2023, Judge Dodge issued a deficiency order which administratively closed the case and instructed Plaintiff on the necessary requirements to proceed with a lawsuit, including filing an IFP motion along with the required supporting documents and submitting an amended complaint. (Docket No. 3). Plaintiff subsequently filed an IFP motion on September 7, 2023, (Docket No. 4), but he did not include with the IFP motion the required supporting documents, nor did he submit an amended complaint. Consequently, Judge Dodge issued a second deficiency order on September 26, 2023, again instructing Plaintiff on the necessary requirements to proceed with a lawsuit, including submitting an amended complaint by October 26, 2023. (Docket No. 5). Plaintiff was advised that failure to do so would be construed as indicating his decision not to prosecute this case. (*Id.*). Plaintiff did

not submit an amended complaint by October 26, 2023, nor did he request additional time to do so.

Given the foregoing, the R&R recommends that this case should be dismissed without prejudice for Plaintiff's failure to prosecute, and the motion for leave to proceed *in forma pauperis* should be denied as moot. (*See* Docket No. 6 at 2). Service of the R&R was made on Plaintiff by mail, and he was informed that any objections were due by January 2, 2024. Thereafter, Plaintiff did not file any objections to the R&R.

The Federal Rules of Civil Procedure provide that a party may file specific written objections to the proposed findings and recommendations of a magistrate judge, and a district judge must conduct a *de novo* review of any part of the R&R that has been properly objected to. Fed. R. Civ. P. 72(b)(2), (b)(3); 28 U.S.C. § 636(b)(1). Here, however, because no party filed any objections to the R&R, which explicitly states that “[f]ailure to file objections will waive the right to appeal,” (Docket No. 6 at 2-3), this Court reviews the magistrate judge's decision for plain error. *See Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *see also* Fed. R. Civ. P. 72(b), Advisory Committee Notes (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”).

In this case, upon careful review of the R&R and the entire record, and finding no plain error on the face of the record, the Court will accept Judge Dodge's recommendation and adopt the R&R as the Opinion of the Court. In so ruling, the Court agrees with Judge Dodge's determination that this case should be dismissed for Plaintiff's failure to prosecute in view of his failure to comply with the deficiency orders.

Accordingly, in view of the foregoing, the Court enters the following Order:

AND NOW, this 7th day of October, 2024, IT IS HEREBY ORDERED that the R&R, (Docket No. 6), is ADOPTED as the Opinion of the Court. For the reasons set forth in the R&R, IT IS FURTHER ORDERED that the instant action is DISMISSED without prejudice for Plaintiff's failure to prosecute.

IT IS FURTHER ORDERED that Plaintiff's motion for leave to proceed *in forma pauperis*, (Docket No. 4), is DENIED AS MOOT.

IT IS FURTHER ORDERED that the Clerk of Court shall mark this case CLOSED.

s/ W. Scott Hardy
W. Scott Hardy
United States District Judge

cc/ecf: Anthony Hunter (via U.S. mail)
Fayette County Prison
12 Court Street
Uniontown, PA 15401